

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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In re :
 : Chapter 13
 DOMINIC AND PATRICIA :
 FABBIA :
 :
 : Bankruptcy No. 18-17959(AMC)
 Debtors. :
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**THE CITY OF PHILADELPHIA’S OBJECTION TO DEBTORS’ PETITION TO
RECONSIDER ORDER DISMISSING CASE**

AND NOW, comes the City of Philadelphia, a priority and general unsecured creditor in the above-captioned case, by and through their Counsel, Pamela Elchert Thurmond, Deputy City Solicitor, to respond to Debtors’ Petition to Reconsider Order Dismissing Case (“the Motion”).

The Debtors ask the Court to reconsider the dismissal of their bankruptcy case even though they have filed two unauthorized bankruptcy cases in violation of a prior bar order. The City believes the Debtors’ lack of candor with the Court should prohibit the reinstatement of this bankruptcy case.

The City avers the following in support thereof:

1. On December 3, 2018, the Debtor filed a voluntary petition for Chapter 13 bankruptcy with this Court.
2. The Debtors failed to appear at two Meetings of Creditors on 2/27/2019 & 6/3/2019.
3. On February 28, 2019, the Trustee filed a Motion to Dismiss the Debtors’ bankruptcy case.

4. On June 4, 2019, the Court entered an order dismissing the Debtors' bankruptcy case.

5. The Debtors have had at least four prior cases.

6. On January 8, 2009, the Debtor wife filed a Chapter 13 bankruptcy case [Docket No. 09-10159].

7. On September 14, 2009, the Court dismissed Debtor wife's bankruptcy case for failure to make plan payments.

8. On March 1, 2010, the Debtors filed a second Chapter 13 bankruptcy case [Docket No. 10-11547].

9. On January 17, 2012, the Debtors' bankruptcy case was dismissed for failure to make plan payments.

10. On January 17, 2013, the Debtors filed a third Chapter 13 bankruptcy case [Docket No. 13-10111].

11. On March 5, 2013, the Debtors entered into a consent order that specified "if this case is dismissed for any reason, it shall be with prejudice; debtors shall be prohibited from filing, individually or jointly, any subsequent bankruptcy case without further leave [sic] Court. . ." See attached Exhibit A.

12. The Court Order further specifies "this Consent Order shall be effective without any further reference to its terms in any subsequent dismissal of this case, regardless of the circumstances of the dismissal, the identity of the party moving for the dismissal, or the express terms of the order dismissing the case. The dismissal of the case, in and of itself, shall be sufficient to effectuate this Consent Order and the barring of the debtors from further filings in accordance with its terms." Id.

13. On December 2, 2014, the Debtors' bankruptcy case was dismissed and the prior bar order went effective.

14. On July 16, 2018, the Debtors filed a fourth Chapter 13 case without seeking court permission for the bankruptcy filing.

15. On October 30, 2018, the Court dismissed the bankruptcy case due to the failure to make plan payments.

16. The Debtors have not sought court permission for the filing of either of their 2018 bankruptcy cases. The Court should not grant the reinstatement of the Debtors' bankruptcy case because the Debtors have filed this case without the required court permission.

17. In addition, the Debtors have not asserted sufficient grounds for reconsideration under Fed. R. Bankr. P. 9023 & 9024.

WHEREFORE, the City respectfully requests that this Honorable Court DENY the Debtors' Motion for Reconsideration of the Order dismissing this Bankruptcy Case.

Respectfully submitted,

THE CITY OF PHILADELPHIA

Dated: July 17, 2019

By: /s/ Pamela Elchert Thurmond
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